

**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001**

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

**Complaint on Sunday
and Holiday Collections**

Docket No. C2001-1

**DOUGLAS F. CARLSON
MOTION TO COMPEL THE UNITED STATES POSTAL SERVICE
TO RESPOND TO INTERROGATORY DFC/USPS-10(b)**

June 18, 2001

On May 21, 2001, I filed interrogatory DFC/USPS-10(b).¹ This interrogatory states:

To the extent that information and data are available, for each holiday listed in DFC/USPS-6 * * * [p]lease provide, for each year between 1986 and the present, the volume of First-Class letters that every P&DC and P&DF cancelled and processed.

On June 8, 2001, the Postal Service filed a partial objection, asserting that "facility-specific volume information is proprietary commercial information that should not be publicly disclosed."² On June 12, 2001, the Postal Service responded to this interrogatory by providing, for each plant, the ratio of the holiday cancellation volume to the average daily cancellation volume in FY 2000.³ Notwithstanding the fact that I specifically requested the actual volume, on the introduction page in USPS-LR-2 the Postal Service asserted that "[m]erely to know how many pieces were cancelled in any given facility on any given holiday * * * offers no basis to suggest, relatively speaking, whether the number provided

¹ Douglas F. Carlson Interrogatories to the United States Postal Service (DFC/USPS-1-18), filed May 21, 2001.

² Partial Objection of the United States Postal Service to Carlson Interrogatories DFC/USPS-10 and 12 ("Partial Objection"), filed June 8, 2001.

³ Response to DFC/USPS-10; *see also* USPS-LR-2.

constitutes a large or a small number of pieces for that facility.”⁴ The Postal Service added, “Moreover, in proceedings before the Commission, it is the practice of the Postal Service not to intentionally disclose facility-specific volume information. Disclosure of the raw cancellation data * * * would conflict with that practice.”

In this complaint, I have alleged that current holiday service levels may not be adequate within the meaning of 39 U.S.C. § 3661(a).⁵ As an individual postal customer, I face a substantial burden in proving that current holiday service levels are not adequate, particularly since the Postal Service controls most of the knowledge and information concerning historical customer mailing patterns on holidays. My resources for proving the inadequacy of current holiday service levels *through independently developed evidence are limited*.

Additionally, if the Postal Service had obtained an advisory opinion under 39 U.S.C. § 3661(b) before changing the nature of postal services to eliminate outgoing mail processing on certain holidays on a nationwide or substantially nationwide basis, the Postal Service would have shouldered the burden of proving that the Postal Service still would provide the public with adequate mail service *even in the absence of holiday mail processing*. The Postal Service skipped this step, however, shifting the burden of proving the inadequacy of the current holiday service levels onto the person who files a complaint under section 3662. The presiding officer should afford me reasonable and sufficient latitude to prove that current holiday service levels are not adequate by directing the Postal Service to respond to interrogatories reasonably calculated to lead to the discovery of admissible evidence.

Historical volume data provide an excellent insight into the public’s need for holiday mail processing. Data that the Postal Service provided in USPS-LR-2 tend to confirm that most plants that have eliminated holiday mail processing

⁴ USPS-LR-2.

⁵ Douglas F. Carlson Notice of Filing of Amended Pages of Complaint at ¶ 20, filed March 29, 2001.

cancelled a significant volume of mail on those holidays in previous years. Still, I am uncomfortable possibly submitting testimony alleging that current holiday service levels are not adequate if the only data that I can cite are data showing, for a particular holiday, that a plant processed, e.g., 15 to 25 percent of its average daily cancellation volume. True, the ratio places the holiday cancellation volume in a useful perspective. However, knowing the actual number of pieces of mail is a critical part of the inquiry as well, as this information provides some insight into the number of postal customers who needed holiday service.

For example, for Memorial Day in 1998, the data in USPS-LR-2 indicate that the P&DC in Oakland, California, processed 18.3 percent of its average daily cancellation volume. While this percentage is notable, I was significantly more impressed when I learned that the Oakland P&DC processed nearly 250,000 pieces of mail on Memorial Day in 1998.⁶ A volume of 250,000 indicates a substantial customer need for holiday mail processing: if each customer deposited an average of two to three letters, possibly 100,000 East Bay postal customers needed the processing that the Oakland P&DC provided in 1998. This service, of course, ended in 2000.

Actual volume data provide an important insight into the adequacy of current holiday service levels because these data show the number of pieces of mail and, by inference, the number of postal customers using the service during years when the Postal Service provided it. As indicated earlier, the Postal Service stated that “[m]erely to know how many pieces were cancelled in any given facility on any given holiday * * * offers no basis to suggest, relatively speaking, whether the number provided constitutes a large or a small number of pieces for that facility.”⁷ The test for adequacy, however, is not solely the size of holiday cancellation volumes at a facility compared to average daily cancellation volumes. Rather, the actual number of pieces of mail and the actual number of

⁶ Even though the plant manager disclosed the cancellation volume in a letter to me, the Postal Service now refuses to confirm this information. See Response to DFC/USPS-12 and Partial Objection.

⁷ USPS-LR-2.

customers affected by holiday services are at least as probative of adequacy of service as the relation of holiday cancellation volumes to normal daily cancellation volumes at each facility. Particularly considering my substantial burden to prove that current holiday service levels are not adequate, I have made a sufficient showing that interrogatory DFC/USPS-10(b) is reasonably calculated to lead to the production of relevant and admissible evidence.

The Postal Service claims that cancellation volumes are proprietary commercial information. This position ignores the fact that cancellation volumes consist exclusively, or almost exclusively, of First-Class Mail, a product over which the Postal Service possesses a monopoly. The Postal Service should not be permitted to withhold commercial information in Commission proceedings unless releasing the commercial information would pose a reasonable and identifiable risk of competitive harm. Publicly disclosing holiday cancellation volumes for a monopoly product would not cause any competitive harm to the Postal Service. Therefore, the Postal Service has no basis for withholding the volume data, whether they are proprietary commercial information or not.

In ratemaking proceedings, where the Postal Service's practice of withholding facility-specific information in Commission proceedings presumably developed, the relevance of facility-specific information is less clear. In contrast, in this proceeding, to know that a particular geographic area generated a particular amount of mail on a holiday is highly probative of the question of adequacy of service. Commission precedent on disclosure of facility-specific information should not control in this service-complaint proceeding under section 3662.

The Postal Service's failure to seek an advisory opinion under section 3661(b) before curtailing holiday service levels is another factor in evaluating the Postal Service's objection to providing this information. The Postal Service effectively is attempting to hide behind a claim of proprietary commercial information to block my effort to show that current holiday service levels are not

adequate. By skipping the required advisory opinion, the Postal Service already has shifted the burden of proof concerning adequacy of service levels to me. The presiding officer must not allow the Postal Service to impose yet another barrier to customer complaints under section 3662 by sustaining the Postal Service's objection to providing volume data.

If the presiding officer finds merit in the Postal Service's position that facility-specific volume information is proprietary commercial information that should not be publicly disclosed, I would not oppose a request from the Postal Service to provide the information under protective conditions. Indeed, the Postal Service's objection complains only about *public disclosure* of this information. Rule 26(c) requires the bases for objection to be clearly and fully stated. Consequently, a ruling directing the Postal Service to provide the volume data under protective conditions would overcome the Postal Service's objection entirely.⁸ Particularly given the small number of participants in this proceeding, no conceivable harm to the Postal Service could result from releasing the information on holiday cancellation volumes that I am requesting.

In sum, actual holiday cancellation volumes are relevant to probing whether the Postal Service is providing adequate holiday service. Therefore, the presiding officer should direct the Postal Service to provide the information that I requested in DFC/USPS-10(b), either as a public record or under protective conditions.

Respectfully submitted,



DOUGLAS F. CARLSON

Dated: June 18, 2001

⁸ Partial Objection at 1.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the required parties in accordance with section 12 of the *Rules of Practice*.



DOUGLAS F. CARLSON

June 18, 2001
Santa Cruz, California